

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JEREMY SANCHEZ,

Plaintiff,

vs.

Civ. No. 12-1122 KG/WPL

MICHAEL JIMENEZ, individually and in his official capacity as
The Administrator of the Grant County Detention Center,
JON SAARI, individually and in his official capacity as Grant County Manager
and as supervisor of Michael Jimenez,
THE BOARD OF COUNTY COMMISSIONERS
OF GRANT COUNTY, NEW MEXICO in its official
capacity and as the supervisor of Jon Saari and Michael Jimenez,

And

THE AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES LOCAL 2516,

And

THE AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES COUNSEL # 18,

Defendants.

ORDER

On October 17, 2013, the Court entered an Order striking Plaintiff's Response to Defendant County's Motion for Summary Judgment (Response) and allowing Plaintiff until November 1, 2013, to file an amended Response which complies with the Local Rules. (Doc. 75) at 2. The Court also ordered that "if the amended Response to Defendant County's Motion for Summary Judgment does not comply with the Local Rules, the Court will strike that response without any further opportunity to amend the Response to Defendant County's Motion for Summary Judgment...." *Id.* In addition, if Plaintiff filed and served an amended Response, the

Court allowed Defendants Michael Jimenez, Jon Saari, and the Board of County Commissioners of Grant County, New Mexico (County Defendants) to file an amended reply. *Id.* at 2-3.

On November 1, 2013, Plaintiff filed Plaintiff's First Amended Response to Defendant County's Motion for Summary Judgment (Amended Response). (Doc. 78). Plaintiff also filed, on that same day, Plaintiff's Motion for Leave to File a Thirty-Three Page Response and Sixty Eight Pages of Supplemental Material to Defendant's Motion for Summary Judgment (Motion for Leave). (Doc. 79). County Defendants responded to the Motion for Leave and Plaintiff replied to County Defendants' response. (Docs. 81 and 82). Having reviewed the Motion for Leave and the accompanying briefs, the Court grants the Motion for Leave and allows County Defendants until January 10, 2014, to file an amended reply.

Plaintiff seeks the Court's permission to exceed the 24 page limitation for response briefs and to exceed the 50 page limit for exhibits. *See* D.N.M. LR-Cv 7.5 (limiting response briefs to 24 pages); D.N.M. LR-Cv 10.5 (limiting exhibits to a total of 50 pages unless parties agree to exceed the page limitation or the court orders otherwise). Plaintiff notes that he has reduced his Response from 55 pages to 33 pages. However, Plaintiff has increased the total pages of exhibits from 56 to 68 pages. Plaintiff explains that the additional exhibits should have been provided to the Court in the original Response. Plaintiff argues that the legal and factual complexity of this employment termination case justify granting the Motion for Leave.

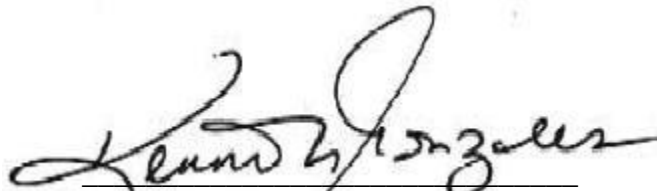
County Defendants argue, on the other hand, that Plaintiff unfairly seeks to benefit from County Defendants' reply to the Response, which Plaintiff reviewed prior to filing the Amended Response. According to County Defendants, Plaintiff, in effect, responded to their reply by filing an Amended Response with ten additional exhibits, re-drafting his affidavit, re-drafting the substance of the Response, and filing a separate Fed. R. Civ. P. 56(d) affidavit that Plaintiff did

not file previously. County Defendants ask the Court to deny the Motion for Leave and to strike the Amended Response as well as the Rule 56(d) affidavit. If the Court is inclined to allow Plaintiff to respond to County Defendants' Motion for Summary Judgment, County Defendants ask the Court to confine the response to the evidence and argument presented in the original Response. If the Court permits Plaintiff to file the Amended Response, County Defendants request that they be allowed additional time to file a reply and challenge the Rule 56(d) affidavit.

The Court finds that Plaintiff has shown good cause to grant the Motion for Leave. There are indeed a myriad of legal issues and a voluminous factual record involved in this case which warrant Plaintiff exceeding the page limitations for his Amended Response and exhibits. Moreover, the fact that Plaintiff reviewed County Defendants' reply before filing the Amended Response does not constitute irreparable harm to the briefing process. However, in fairness to County Defendants, the Court will allow County Defendants until January 10, 2014, to file an amended reply.

IT IS ORDERED that

1. Plaintiff's Motion for Leave to File a Thirty-Three Page Response and Sixty Eight Pages of Supplemental Material to Defendant's Motion for Summary Judgment (Doc. 79) is granted;
2. Plaintiff's Amended Response (Doc. 78) is allowed to stand; and
3. County Defendants have until January 10, 2014, to file an amended reply to Plaintiff's Amended Response.



UNITED STATES DISTRICT JUDGE